

**IN THE UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF ARKANSAS
PINE BLUFF DIVISION**

CHRISTOPHER LEAVENS

PLAINTIFF

v.

CASE NO.: 5:07CV00324-JMM-BD

DOES, *et al.*

DEFENDANTS

RECOMMENDED DISPOSITION

I. Procedure for Filing Objections

The following recommended disposition has been sent to United States District Court Judge James M. Moody. Any party may serve and file written objections to this recommendation. Objections should be specific and should include the factual or legal basis for the objection. If the objection is to a factual finding, specifically identify that finding and the evidence that supports your objection. An original and one copy of your objections must be received in the office of the United States District Court Clerk no later than eleven (11) days from the date you receive the Recommended Disposition. A copy will be furnished to the opposing party. Failure to file timely objections may result in waiver of the right to appeal questions of fact.

Mail your objections and “Statement of Necessity” to:

Clerk, United States District Court
Eastern District of Arkansas
600 West Capitol Avenue, Suite A149
Little Rock, AR 72201-3325

II. Background

On December 27, 2007, Plaintiff Christopher Leavens filed a Motion for Leave to Proceed *In Forma Pauperis* (docket entry #1). The motion was granted and Plaintiff was ordered to make monthly payments until the filing fee is paid in full (#4). To date, no payments have been received towards the statutory \$350.00 filing fee.

Plaintiff is no longer incarcerated in the Arkansas Department of Correction, Varner Unit (#8, #9). When plaintiffs proceeding *in forma pauperis* are released from confinement, they must submit current information regarding their financial status so that the Court can determine whether they should be required to pay the filing fee and costs of the lawsuit.

Accordingly, on February 7, 2008, the Court ordered Plaintiff to submit a new request to proceed *in forma pauperis* or to pay the remaining filing fee of \$350.00 to the Court in order to proceed with this lawsuit. The Court warned Plaintiff that failure to comply with the Order may result in dismissal of this action under Local Rule 5.5(c)(2) and the Federal Rules of Civil Procedure. A copy of that Order and a new Application to Proceed *in Forma Pauperis* were mailed to Plaintiff at his new address on February 7, 2008. Plaintiff has not responded to the Court's Order (#15).

In addition, on February 1, 2008, Defendants filed a motion to dismiss (#11). Plaintiff has failed to respond to Defendants' motion.

III. Conclusion

The Court recommends that the District Court dismiss the Complaint without prejudice, under Local Rule 5.5(c)(2), for failure to comply with the Court's Order of February 7, 2008 (#15). In addition, the Court recommends that Defendants' motion to dismiss (#11) be DENIED as moot.

DATED this 13th day of March, 2008.



UNITED STATES MAGISTRATE JUDGE